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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/764,219	01/23/2004	Wolfgang Dinkelacker	K0004/7005	9150
21127	7590	11/25/2005		
KUDIRKA & JOBSE, LLP ONE STATE STREET SUITE 800 BOSTON, MA 02109			EXAMINER WERNER, JONATHAN S	
			ART UNIT	PAPER NUMBER
			3732	

DATE MAILED: 11/25/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/764,219

Applicant(s)

DINKELACKER, WOLFGANG

Examiner

Jonathan Werner

Art Unit

3732

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-17 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☒ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 4/19/04 & 5/03/04.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

DETAILED ACTION

Priority

1. Acknowledgment is made of applicant's claim for foreign priority based on an application filed in Europe on 1/25/03. It is noted, however, that applicant has not filed a certified copy of the 03001688.5 application as required by 35 U.S.C. 119(b).

Information Disclosure Statement

2. The information disclosure statements (IDS) submitted on 4/19/04 and 5/03/04 were filed before the mailing date of a first Office Action on the merits. The submission is in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statements are being considered by the examiner.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 2-3, 9, 14 and 17 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In claim 1, applicant claims "a temporary attachment for jaw implants." However, in dependent claims 2 and 14, applicant further claims the specifics of the jaw implant instead of the attachment. Likewise, in dependent claims 9 and 17, applicant further claims the specifics of the screw instead of the attachment. Furthermore, as to claim 2, it is not

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clear what applicant is trying to claim in the portion that reads: “wherein the base has a first side shaped to fit closely to the implant head shape, has a second side in contact with the molded piece ...” It is not clear what the “base” represents and not clear what the “second side” represents.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-9, 11, and 14-17 are rejected under 35 U.S.C. 102(b) as being anticipated by Durr (5,026,280). As to claim 1, Durr shows in Figures 1-6 an attachment (18) for jaw implants comprising a base (bottom half of 18 in Figure 3), a head (top half of 18 in Figure 3), and a molded piece (column 3, line 64) made of biocompatible and elastic material (col 5, ln 40-41) located between the base and the head, wherein the elastic material is deformable under the action of a screw (20). As to claim 2 as understood, Durr shows a jaw implant (10,12) that has a head with a shape and wherein the base of the attachment (18) has a first side shaped to fit to the implant head (16,24) and the base of the attachment has a second side in contact with the molded piece wherein it is attached to the implant head by the screw (Fig 1-2). As to claim 3, the second side of the base has a shape profile that predetermines the type of deformation of the molded piece (Fig 1). As to claim 4, the head is in contact with the molded piece wherein the shape profile of the head determines the type of deformation of the molded piece (Fig 1). As to claim

5, Figure 4 shows the base side and the head side each have a convex shape profile which results in a barrel-shaped deformation of the molded piece. As to claim 6, Figure 3 shows the head side has a shape profile which tapers toward the molded piece and predetermines a deformation of the molded piece. As to claims 7 and 8, the base has a side in contact with the molded piece and wherein one of the base side and the head side has a radially asymmetric shape profile (Figure 3) and the radial direction of deformation can be selected by rotating one of the base and the head around the longitudinal axis. As to claim 9, the screw has a head wherein the attachment head comprises the screw head (Figure 1). As to claim 11, the molded piece has a cylindrical shape (Figure 4). As to claim 14, the implant head contacts the molded piece and the attachment base comprises the implant head (Figure 1). As to claim 15, the implant has a head with a shape that contacts the base of the attachment and wherein the base is shaped to prevent rotation with respect to the implant head by providing a channel for a corresponding screw (Figure 1). As to claim 16, at least one of the base and the head is attached to the molded piece (Figures 1,3). As to claim 17, the screw (20) threads into a threaded bore (15) in the jaw implant wherein the threaded bore is used to fasten a superstructure (28) to the implant.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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5. Claims 10, 12 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Durr in view of Mozsary (4,552,532). In regards to claim 10, Durr discloses an attachment for a jaw implant as previously described, however, fails to show the head comprises a plate having a bore therein through which passes the screw. Mozsary teaches the use of a plate (62) with a bore therein through which passes a screw (Figure 1). Therefore, it would have been obvious to one having ordinary skill in the art at the time of invention to add a plate with a bore therein in order to attenuate relative movement between the implant and a prosthetic superstructure as taught by Mozsary. In re claim 12, Durr discloses an attachment for a jaw implant as previously described, however, fails to disclose the molded piece has a height at least equal to a thickness of gingival tissue. Mozsary teaches an attachment (48) for a jaw implant which has a height at least equal to a thickness of gingival tissue (28). Therefore, it would have been obvious to one having ordinary skill in the art at the time of applicant's invention to make the molded piece have a height at least equal to a thickness of gingival tissue in order to make the appearance cosmetically acceptable as taught by Mozsary. In re claim 13, Durr discloses an attachment for a jaw implant as previously described, however, fails to show the molded piece is silicone. Mozsary teaches an attachment (48) for a jaw implant that is constructed of silicone (col 3, ln 50-52). Therefore, it would have been obvious to one having ordinary skill in the art at the time of applicant's invention to fabricate the molded piece from silicone material in order to ensure the component is biocompatible with the human body as taught by Mozsary.

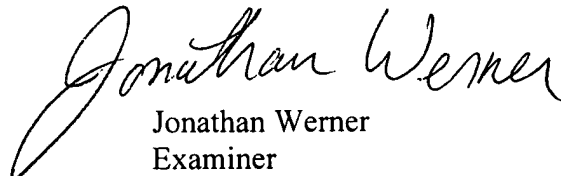
Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Please refer to included form PTO-892 for all additional pertinent prior art related to attachments for jaw implants.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jonathan Werner whose telephone number is (571) 272-2767. The examiner can normally be reached on Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kevin Shaver can be reached on (571) 272-4720. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Jonathan Werner
Examiner
AU 3732

JSW
11/18/05


MELBA N. BUMGARNER
PRIMARY EXAMINER